

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1435/1dn
JK:cmh&kmg:km

January 12, 1999

I have restored the “pre-1996” lottery tax credit as instructed. However, by doing so, I have resurrected the statute that Dane County Circuit Court Judge Angela Bartell found violated the uniformity clause of the Wisconsin Constitution, article VIII, section 1. See *Wisconsin Out-of-State Landowners Association, Inc. v. Wisconsin Dept. of Revenue*, Decision and Order on Summary Judgment, 96-CV-166. Judge Bartell found that the prior statute violated the uniformity clause because it granted a partial exemption from property taxes, in the form of a lottery credit, only to owners of primary residences in Wisconsin. The Wisconsin supreme court has held that reducing the taxes on some property but not exempting the property is a partial exemption that violates the uniformity clause. See *Ehrlich v. Racine*, 26 Wis. 2d 352 (1964) and *Gottlieb v. Milwaukee*, 33 Wis. 2d 408, 427-428 (1967).

I am aware that voters will vote on a referendum in April to amend sections 24 (3), (5) and (6) (a) of Article IV of the constitution to require that the state use the proceeds of the state lottery for property tax relief for state residents. Depending on the actual language of those amendments, those amendments may resolve the potential constitutional problems with this bill. If you have any further questions about this issue, please don't hesitate to contact me.

Joseph T. Kreye
Legislative Attorney
266-2263